

# **MOTOR VEHICLES AND TRAFFIC**

## **CHAPTER 14**

### **MOTOR VEHICLES AND TRAFFIC**

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### **ARTICLE I. IN GENERAL**

#### **SECTION 14-1. COMPLIANCE WITH CHAPTER; GENERAL PENALTY FOR VIOLATIONS.**

It shall be unlawful for any person to violate any of the provisions of this chapter. Unless otherwise stated, a violation of this chapter shall constitute a traffic infraction punishable by a fine of not more than two hundred and fifty dollars (\$250.00). (Code 1959, §15-24; Ord. of 6-28-77; Ord. No. 019-2002, 8-13-02; Ord. No. 008-2004, 3-9-04)

**Charter reference**--Regulation of traffic, §16.

**Cross references**--Permit for commercial haulers of garbage and refuse, §11-2; injuring, tampering with, etc., vehicles, §14-11.1; posting advertising matter on or in vehicles, §14-15; use of loudspeakers on vehicles, §14-17; open storage of inoperative vehicles in certain zoning districts, §14-25; planning, Ch. 19; railroads, Ch. 22; streets and sidewalks, Ch. 26; vehicles for hire, Ch. 31.

**State Law References**--General authority of city to regulate traffic, Code of Virginia, §§46.2-1300--46.2-1313; Similar provisions applicable to violation of state traffic laws, Code of Virginia, §46.2-113; city prohibited from imposing penalty for traffic violation which is greater than penalty imposed by state for similar offense, Code of Virginia, §46.2-1300.

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### **SECTION 14-2.      ARREST PROCEDURE FOR VIOLATIONS OF CHAPTER --GENERALLY.**

- (a) Whenever any person is arrested for a violation of any provision of this chapter, except §14-28, the arresting officer shall, except as otherwise provided in §14-3, take the name and address of such person and the license number of his motor vehicle and issue a summons or otherwise notify him in writing, to appear at a time and place to be specified in such summons or notice, such time to be at least five (5) days after such arrest, unless the person arrested shall demand an earlier hearing, and such person shall, if he so desires, have a right to an immediate hearing or a hearing within twenty-four (24) hours, at a convenient hour and before a court having jurisdiction. Such officer shall thereupon and upon the giving by such person of his written promise to appear at such time and place, forthwith release him from custody. This section shall not apply to any violation for which a citation is issued pursuant to the authority of §14-54 and following.
- (b) Any person refusing to give such written promise to appear shall be taken immediately by the arresting or other police officer before the nearest or most accessible judicial officer or other person qualified to admit to bail having jurisdiction under this chapter.
- (c) Any person who willfully violates his written promise to appear given in accordance with this section shall be guilty of a misdemeanor, regardless of the disposition of, and in addition to, the charge upon which he was originally arrested.
- (d) Any officer violating any of the provisions of this section shall be guilty of misconduct in office and subject to removal therefrom upon complaint filed by any person in a court of competent jurisdiction. This section shall not be construed to limit the removal of a police officer for other misconduct in office. (Code 1959, §12-27; Ord. No. 002-91, 1-15-91).

**Cross reference**--Use of above section for arrests for littering, §11-3.

**State Law Reference**--Similar provisions, Code of Virginia, §46.2-936.

### **SECTION 14-3.      SAME--WHEN ARRESTED PERSON TO BE TAKEN BEFORE JUDICIAL OFFICER.**

If any person arrested for a violation of any provision of this chapter is believed by the arresting officer to be likely to disregard a summons issued under §14-2, the arresting officer shall take such person forthwith before the nearest or most accessible judicial officer or other person qualified to admit to bail, in lieu of issuing the summons required by §14-2, and such judicial officer or other person shall determine whether or not

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probable cause exists that such person is likely to disregard a summons, and may issue either a summons or warrant as he shall determine proper. (Code 1959, §15-28).

**State Law Reference**--Similar provisions, Code of Virginia, §46.2-940.

### **SECTION 14-4. SAME--TRAFFIC INFRACTIONS TREATED AS MISDEMEANORS FOR ARREST PURPOSES.**

For purposes of arrest, traffic infractions shall be treated as misdemeanors. Except as otherwise provided by this chapter or state law, the authority and duties of arresting officers shall be the same for traffic infractions as for misdemeanors.

**State Law Reference**--Similar provisions, Code of Virginia, §46.2-937.

### **SECTION 14-5. ADOPTION OF STATE LAW.**

- (a) Pursuant to the authority of § 46.2-1313 of the Code of Virginia, all of the provisions and requirements of the laws of the state contained in Title 46.2 of the Code of Virginia, except those provisions and requirements the violation of which constitutes a felony, and except those provisions and requirements which, by their very nature, can have no application to or within the City, are hereby adopted and incorporated in this chapter by reference and made applicable within the City.

References to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the streets, highways and other public ways within the City. Such provisions and requirements are hereby adopted and made a part of this chapter as fully as though set forth at length herein, and it shall be unlawful for any person within the City to violate or fail, neglect or refuse to comply with any provision of Title 46.2 of the Code of Virginia, which is adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under Title 46.2 of the Code of Virginia.

- (b) All definitions of words and phrases contained in the state law hereby adopted shall apply to such words and phrases, when used in this chapter, unless clearly indicated to the contrary. (Ord. No. 007-90, 2-13-90)

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### **SECTION 14-6.      APPLICABILITY OF CHAPTER TO VEHICLES REGARDLESS OF OWNERSHIP.**

The provisions of this chapter applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles regardless of ownership, subject to such specific exceptions as are set forth in this chapter. (Code 1959, §15-2).

**State Law Reference**--Similar provisions, Code of Virginia, §46.2-801.

### **SECTION 14-7.      APPLICATION OF CHAPTER TO PERSONS RIDING BICYCLES OR ANIMALS OR DRIVING ANIMALS.**

Every person riding a bicycle or an animal upon a roadway and every person driving any animal thereon shall be subject to the provisions of this chapter applicable to the driver of a vehicle, except those provisions which, by their very nature, can have no application. (Code 1959, §15-3)

**Cross reference**--Animals, Ch. 5.

**State Law Reference**--Similar provisions, Code of Virginia, §46.2-800.

### **SECTION 14-8.      ENFORCEMENT BY POLICE; OFFICERS TO BE PAID FIXED AND DETERMINED SALARIES.**

Every policeman shall enforce the provisions of this chapter; provided, that such officer shall be uniformed at the time of such enforcement or shall display his badge or other sign of authority; and, provided further, that all officers making arrests incident to the enforcement of this chapter shall be paid fixed and determined salaries for their services and shall have no interest in, nor be permitted by law to accept the benefit of, any fine or fee resulting from the arrest or conviction of an offender against any provision of this chapter. (Code 1959, §15-5).

**State Law Reference**--Similar provisions, Code of Virginia, §46.2-102.

### **SECTION 14-9.      AUTHORITY OF FIRE DEPARTMENT OFFICIALS TO DIRECT TRAFFIC.**

Officers of the fire department may direct or assist the police in directing traffic at or in the immediate vicinity of a fire, and while so acting, shall have all the authority of peace officers. (Code 1959, §15-12).

### **SECTION 14-10.    REPEALED. (Ord. No. 19-2006, 5-3-06)**

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**Editor's Note** – Provisions of previous Section 14-10 have been re-enacted as Article IX, Sections 14-146 through 14-157.

### **SECTION 14-11. IDENTIFICATION OF VEHICLES IN FUNERAL PROCESSIONS; RIGHT-OF-WAY.**

- (a) All motor vehicles participating in a funeral procession, when proceeding to any place of burial, shall display illuminated headlamps thereon and such other identification as the city manager may prescribe.
- (b) All motor vehicles so designated shall have the right-of-way over all other vehicles, except fire apparatus, ambulances and police vehicles, at any street or highway intersection within the City, and may proceed through a stop street or signalized intersection with proper caution and safety. (Code 1959, §15-14).

**State Law Reference**--Similar provisions and authority of city to provide for police escort for funeral processions, Code of Virginia, §46.2-828.

### **SECTION 14-12. BOARDING OR ALIGHTING FROM MOVING VEHICLES.**

No person shall board or alight from any vehicle while such vehicle is in motion. (Code 1959, §15-15).

### **SECTION 14-13. RIDING UPON PORTION OF VEHICLE NOT INTENDED FOR USE OF PASSENGERS.**

No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty, or to persons riding within truck bodies in space intended for merchandise. (Code 1959, §15-16).

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### **SECTION 14-14. DISPLAY OF VALID STATE LICENSE PLATES AND VALID STATE INSPECTION CERTIFICATE.**

It shall be unlawful for any person to operate or park any motor vehicle, trailer or semitrailer on any public street or public property unless the same shall display thereon valid state license plates and a valid state inspection certificate.

Violations of this section shall be punishable by a fine of twenty-five dollars (\$25.00).  
(Ord. No. 016-94, 04-12-94)

**State Law Reference**--Code of Virginia, §§46.2-613, 46.2-1157, 46.2-1220.

### **SECTIONS 14-15 - 14-16. RESERVED.**

## **ARTICLE II. MOTOR VEHICLE LICENSE**

### **SECTION 14-17. MOTOR VEHICLE LICENSES.**

#### **(a) Definitions.**

For the purposes of this section, the following terms shall have the following meanings:

*Situs* a vehicle, as described herein, shall have situs in the City of Winchester if it is normally garaged, stored or parked within the City. If it cannot be determined where the vehicle is normally garaged, stored or parked, the situs shall be the domicile of its owner. In the event the owner of the vehicle is a full-time student attending an institution of higher education, the situs shall be the domicile of such student, provided the student has presented sufficient evidence that he or she has paid a personal property tax on the vehicle in his domicile.

*Vehicle* any motor vehicle, as defined by Virginia Code §46.2-100, as such section may be amended from time to time.

#### **(b) The owner of each vehicle which has situs in the City of Winchester must obtain and conspicuously display a city decal for said vehicle, according to directions printed on the reverse of the decal. The application for the license and for each annual renewal shall be made to the Commissioner by mail or in person, on forms provided by the Commissioner, and shall contain the same information as that appearing on the state automobile registration card.**

1. For any vehicle which had situs in the City prior to January 1, 1994, and owned by the person prior to that date, the decal for the vehicle must be purchased and displayed by January 31 of each year.
2. For any vehicle which acquires situs in the City after January 1, 1994, the decal must be purchased and displayed within thirty days from the date on

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which situs is acquired. If a vehicle with situs prior to January 1, 1994 is transferred to a new owner, the license plate, tag or decal must be purchased and displayed within thirty days from the date which such transfer is made.

3. Thereafter, a renewal decal must be purchased and displayed annually, in the twelfth month after issuance of the original.
- (c) Upon the payment of the license fee and any unpaid personal property tax on said vehicles and on all other motor vehicles of the owner to the Treasurer, he shall issue the decal.

The license fee on vehicles shall be as follows:

1. Motor vehicles, including automobiles, less than 10,000 pounds: \$24.00
  2. Motor vehicles 10,000 pounds or more: \$36.00
  3. Two or three wheel motor vehicles: \$12.00
  4. Motor homes. Greater than 10,000 pounds; and buses used exclusively for transportation to and from religious school or church or other place of worship, for the purpose of divine worship, greater than 10,000 pounds: \$30.00
  5. Antique motor vehicles registered, licensed, and used as such pursuant to Section 46.2-730 of the Code of Virginia, 1950, as amended: \$10.00
- (d) Any license not purchased by the dates specified herein shall be increased by \$5.00.
- (e) Every vehicle displaying valid dealers number plates shall be exempt from this license fee.
- (f) Any person who fails to comply with this section shall be guilty of a Class 4 misdemeanor and each day's failure to do so shall be a separate offense.
- (g) Violation of this ordinance may, at the discretion of the officer, be processed in the same manner as provided in Sections 14-54, 14-55, and 14-56 of this Code, but such violation may not be, regardless of how they are initiated or processed, discharged by payment of a fine, alone, except upon presentation of satisfactory evidence that the required license has been obtained. When processed as provided in said Section 14-54, 14-55, and 14-56, the prepayment amount for such violations shall be Twenty-Five Dollars (\$25.00).

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(Ord. No. 044-88, 11-15-88; Ord. No. 022-92, 11-10-92; Ord. No. 041-93, 11-09-93; Ord. No. 003-96, 04-09-96; Ord. No. 024-2000, 11-16-00; Ord. No. 013-2001, 04-10-2001)

**State Law References**--Code of Virginia, §§46.2-694, 46.2-752, 46.2-755.

### **SECTION 14-18. PRORATION OF VEHICLE LICENSE.**

If the owner of a motor vehicle subject to licensure under section 14-17 disposes of the vehicle during the twelve month period of a city license, decal or tag issued for the vehicle, he or she may present proof of such disposition of such vehicle to the Commissioner. Upon the request of the owner, and upon presentation of such proof, the Commissioner shall credit to the person the remaining time of the life of the license on a monthly prorated basis against the license fee for any new city license, decal or tag applied for by such owner at the time he or she presents proof of disposition of a prior licensed vehicle. (Ord. No. 044-88, 11-15-88; Ord. No. 022-92, 11-10-92; Ord. No. 003-96, 04-09-96)

(Note: This ordinance effective 1 May 1996.)

### **SECTION 14-19. MOTOR VEHICLE LICENSE (REPLACEMENT OF).**

In the event that any City license plate, tag or decal issued shall be lost or mutilated or shall become illegible, the owner shall make immediate application for and obtain a replacement or substitute therefor upon furnishing information of such facts satisfactorily to the Commissioner and upon payment of one dollar (\$1.00) to the Treasurer. (Ord. No. 044-88, 11-15-88; Ord. No. 022-92, 11-10-92)

### **SECTION 14-20. MOTOR VEHICLE LICENSES (DISPLAY; METHOD OF AFFIXING; PENALTY).**

Every motor vehicle license decal issued in accordance with this article shall be displayed on the vehicle for which it was issued as per the instructions printed thereon . It shall be unlawful to affix a decal to the windshield of the vehicle for which it was issued by any means other than the adhesive substance furnished and applied to visible side of decal to be displayed. Any violation of this provision shall constitute a Class 4 misdemeanor. If the decal issued does not adhere to windshield, the Commissioner shall, upon immediate return of the defective decal, issue a replacement without fee. (Ord. No. 044-88, 11-15-88; Ord. No. 022-92, 11-10-92)

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### **SECTION 14-21. MOTOR VEHICLE LICENSES (ISSUED WITHOUT FEE).**

No City license fee shall be imposed for any one vehicle owned and used personally by any veteran who holds a current State Motor Vehicle Registration Card establishing that he had received a disabled veteran's exemption form from the Division of Motor Vehicles, and has been issued a disabled veteran's motor vehicle license plate. (Ord. No. 044-88, 11-15-88; Ord. No. 022-92, 11-10-92)

**State Law Reference**--Code of Virginia, §46.2-755.

### **SECTION 14-22. EXEMPTIONS.**

No motor vehicle license fee shall be imposed on any motor vehicle, trailer, or semitrailer when:

- (a) A similar fee is imposed by the county, city or town wherein the vehicle is normally garaged, stored or parked;
- (b) The vehicle is owned by a nonresident of the City and is used exclusively for pleasure or personal transportation and not for hire or for the conduct of any business or occupation other than that set forth in subdivision (c) of this section;
- (c) The vehicle is (i) owned by a nonresident of the City and (ii) used for transporting into and within the City, for sale in person or by his employees, wood, meats, poultry, fruits, flowers, vegetables, milk, butter, cream, or eggs produced or grown by him, and not purchased by him for sale;
- (d) The motor vehicle, trailer, or semitrailer is owned by an officer or employee of the Commonwealth who is a nonresident of the City and who uses the vehicle in the performance of his duties for the Commonwealth under an agreement for such use;
- (e) The motor vehicle, trailer, or semitrailer is kept by a dealer or manufacturer for sale or for sales demonstration;
- (f) The motor vehicle, trailer, or semitrailer is operated by a common carrier of persons or property operating between cities and towns in the Commonwealth and not in intracity transportation or between cities and towns on the one hand and points and places outside cities and towns on the other and not in intracity transportation. (Ord. No. 022-92, 11-10-92)

**State Law Reference**--Code of Virginia, §46.2-755.

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### **SECTION 14-23. REGIONAL COMPACT FOR CROSS-JURISDICTIONAL ENFORCEMENT OF LOCAL MOTOR VEHICLE LICENSING REQUIREMENTS.**

- (a) Pursuant to §46.2-752(k) of the Code of Virginia, the City shall be a member of the Regional Compact for Cross-Jurisdictional Enforcement of Local Motor Vehicle Licensing Requirements with the Counties of Clarke and Frederick, and the Towns of Berryville, Boyce, Middletown and Stephens City. (Ord. No. 019-95, 04-11-95)
- (b) Any owner or operator of a motor vehicle or any other person required by law to obtain and display a valid local license by any jurisdiction which is a member of the Regional Compact for Cross-Jurisdictional Enforcement of Local Motor Vehicle Licensing Requirements, hereinafter, Participating Jurisdiction, must display any such license while the vehicle on which such license is required, is parked and/or operated upon the City's streets.
- (c) A violation of this section shall be a Class 4 misdemeanor.
- (d) A violation of this section by the owner of the vehicle may not be discharged by payment of a fine except upon presentation of satisfactory evidence that the required license has been obtained.
- (e) This section shall be effective 1 January 1994. (Ord. No. 041-93, 11-09-93)

### **SECTION 14-24. RESERVED.**

## **ARTICLE III. OPERATION OF VEHICLES GENERALLY**

### **SECTION 14-25. STOP AND YIELD INTERSECTIONS.**

The chief of police shall designate intersections at which vehicles shall come to a full stop or yield the right-of-way and cause such intersections to be marked by appropriate signs or signals. The duty of drivers approaching such signs or signals shall be as prescribed by the State law adopted by Section 14-5. (Code 1959, §§15-94, 15-95; Ord. of 7-13-76).

**State Law Reference**--Authority for above section, Code of Virginia, §46.2-1301.

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### SECTION 14-26. ONE-WAY STREETS.

- (a) The following streets are hereby established and designated as one way streets and, except as otherwise herein provided, it shall be unlawful for any vehicles to be driven or moved on such streets in a direction other than as herein set forth:
1. *Baker Street*, from West Lane to Kent Street, westbound.
  2. *Boscawen Street*, between Indian Alley and Cameron Street, eastbound.
  3. *Braddock Street*, from Wyck Street to West Gerrard Street, southbound.
  4. *Cameron Street*, from Gerrard Street to North Loudoun Street, northbound.
  - 4-a. *Charles Street*, from Smithfield Avenue to Fairview Avenue, eastbound.
  - 4-b. *Church Alley*, between Braddock Street and Indian Alley, westbound.
  - 4-c. *Gerrard Street*, between Kent Street and Millwood Avenue, westbound.
  5. *Gibbens Street*, from Loudoun Street to Cameron Street, eastbound.
  6. *Handley Avenue*, from Handley Boulevard to Briarmont Street, northbound.
  - 6-a. *Highland Avenue*, from Liberty Street to National Avenue, southbound.
  - 6-b. *Fairfax Lane*, from Fairmont Avenue to North Braddock Street; eastbound; and from North Cameron Street to East Lane, eastbound.
  - 6-c. *Fairfax Alley*, between North Cameron and North Kent Streets, westbound.
  - 6-d. *Fairview Avenue*, from National Avenue to Virginia Avenue, northbound.
  - 6-e. *Franklin Street*, from Pine Street to Elm Street, eastbound.
  7. *Indian Alley*, from Clifford Street to Fairfax Lane, northbound.
  - 7-a. *Joist Hite Place*, from Academy Street to Lee Street, eastbound.
  8. *Latane Street*, from Cork Street to Joist Hite Place, northbound.
  - 8-a. *Lee Street*, from Joist Hite Place to Cork Street, southbound.
  9. *Morgan Street*, from Amherst Street to Piccadilly Street, northbound.
  - 9-a. *Opequon Avenue*, between Cork and Leicester Street, southbound.
  10. *Piccadilly Street*, from Morgan Street to Fairmont Avenue, eastbound.
  11. *Shawnee Avenue*, from Cork Street to Leicester Street, southbound.
  12. *Shenandoah Avenue*, between Pall Mall Street and Cork Street, northbound.
  13. *Shirley Street*, from Joist Hite Place to Cork Street, southbound.
  14. *Southwerk Street*, from Valley Avenue to South Loudoun Street, eastbound.
  15. *Valley Avenue*, from Braddock Street to Gerrard Street, eastbound.

(Ord. No. 003-83, 2-08-83; Ord. No. 017-84, 9-11-84; Ord. No. 027-2002, 10-8-02; Ord. No. 006-2003, 01-14-03; Ord. No. 017-2003, 05-13-03)

(Note –The effective date of this Ordinance [Ord. No. 017-2003] shall be June 14, 2003.)

- (b) The public works director is authorized and directed to provide such signs on the one-way streets designated in this section as will apprise an ordinarily observant person of such one-way streets. This section shall become effective as to any such

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one-way street when signs have been provided therefor as set out herein.  
(Ord. No. 041-93, 11-09-93)

- (c) When it can be demonstrated to the satisfaction of the chief of police or his duly authorized representative that the strict enforcement of this section will cause an unreasonable hardship on some particular person relative to the loading or unloading of trucks or other vehicles on one-way streets, then in such event the chief of police, or his duly authorized representative, is authorized to issue a special permit to such person permitting a variance from the provisions of this section. Any such special permit shall be in writing and shall specify the nature of such variance and the place and period of time when such variance shall be permitted. Such permit shall only be issued when it can be demonstrated to the chief of police, or his duly authorized representative, that the granting of such permit will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience to the person who seeks such permit. (Code 1959, §§15-92, 15-93; Ord. of 7-13-76; Ord. of 10-11-77).

**Cross reference--**One-way traffic on Loudoun Street Mall, §26-33.

### **SECTION 14-27. SPECIAL SPEED LIMITS ON CERTAIN STREETS.**

- (a) Upon the following streets and highways within the City, between the points hereinafter indicated, the indicated maximum speed limit is hereby established, and no person shall drive a vehicle between such points in excess of such maximum speed limit:
1. Fifteen (15) miles per hour on the following streets and highways:
    - a. All streets and highways within the Jim Barnett Recreation Park Area.
    - b. *Jolley Lane*, from East Lane to Lincoln Street.
  2. Twenty-five (25) miles per hour on the following streets and highways:
    - a. *Amherst Street*, from Wood Avenue to Boscawen Street.
    - b. *Berryville Avenue*, from Dunlap Street to National Avenue.
    - c. *Braddock Street*, from Piccadilly to Gerrard Street.
    - d. *Cameron Street*, from Millwood Avenue to the north corporate limits of the City.
    - e. *Cork Street*, from the east corporate limits of the City to East Lane.
    - f. *Fox Drive*, from the corporate limits of the City to its intersection with Amherst Street.
    - g. *Fairmont Avenue*, from the north corporate limits of the City to Piccadilly Street.
    - h. *Featherbed Lane*, from Pleasant Valley Road to its intersection

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with Loudoun Street.

- i. *Jubal Early Drive*, the portion west of Valley Avenue to its intersection with Meadow Branch Avenue.
  - j. *Loudoun Street*, from its intersection with North Cameron Street to Montague Avenue.
  - k. *Merriman's Lane*, from Amherst Street to the City limits.
  - l. *Millwood Avenue*, from the B & O Railroad crossing to Cameron Street.
  - m. *Papermill Road*, from Pleasant Valley Road to the east corporate limits of the City.
  - n. *Valley Avenue*, from Gerrard Street to Jubal Early Drive.
3. Thirty-five (35) miles per hour on the following streets and highways:
- a. *Amherst Street*, from Wood Avenue to the west corporate limits of the City.
  - b. *Apple Blossom Drive*, from Millwood Avenue to the entrance of Apple Blossom Mall.
  - c. *Battaile Drive*, from the western intersection with Shawnee Drive to the eastern intersection with Shawnee Drive.
  - d. *Berryville Avenue*, from Dunlap Street to the east corporate limits of the City.
  - e. *Cedar Creek Grade*, from Valley Avenue to the west corporate limits of the City.
  - f. *Jubal Early Drive*, from Millwood Avenue to Pleasant Valley Road.
  - g. *Jubal Early Drive*, from South Loudoun Street to Valley Avenue.
  - h. *Millwood Avenue*, from the B & O Railroad tracks to the east corporate limits of the City.
  - i. *Middle Road*, from Valley Avenue to the west corporate limits of the City.
  - j. *Papermill Road*, from its intersection with Weems Lane to Pleasant Valley Road.
  - k. *Pleasant Valley Road*, from Millwood Avenue to Papermill Road.
  - l. *Shawnee Drive*, from Papermill Road to the south corporate limits of the City.
  - m. *Valley Avenue*, from Jubal Early Drive to the south corporate limits of the City.
  - n. *Weems Lane*, from Papermill Road to Valley Avenue.
4. Forty (40) miles per hour on the following streets and highways:
- a. *Jubal Early Drive*, from Pleasant Valley Road to South Loudoun Street.
  - b. *Pleasant Valley Road*, from Berryville Ave. to Millwood Avenue.

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- (b) The foregoing special speed limitations for the areas hereinbefore set out have been fixed by the council by reason of congestion, curves, right angle turns, or other dangerous points on the streets and highways within such areas, or by reason of the lack of such conditions on the streets and highways within such areas, as the case may be, and the council hereby declares that the foregoing special speed limits for such areas are based upon engineering and traffic investigation of such areas.
- (c) The public works director is hereby authorized and directed to cause such signs to be erected on streets and highways otherwise marked so as to clearly indicate the speed limits fixed in subsection (a) of this section. After such signs have been erected, or the streets otherwise marked, it shall be unlawful for any person to exceed the limits set out herein.
- (d) In every charge of violation of any provision of this section, the complaint, and also the summons or notice to appear, shall specify the speed at which the defendant is alleged to have driven and the speed limits applicable within the district or at the location. (Code 1959, §§15-30, 15-63; Ords. of 3-09-71; 4-11-72; 9-01-72; 2-11-75; 3-09-76; Ord. No. 010-84, 5-15-84; Ord. No. 008-86, 6-10-86; Ord. No. 009-90, 3-13-90; Ord. No. 051-91, 12-10-91; Ord. No. 009-92, 6-09-92; Ord. No. 006-93, 2-09-93; Ord. No. 041-93, 11-09-93; Ord. No. 034-96, 12-10-96; Ord. No. 002-97, 01-14-97; Ord. No. 018-2003, 5-13-03; Ord. No. 036-2003, 11-11-03; Ord. No. 001-2004, 1-13-04; Ord. No. 041-2004, 9-14-04; Ord. No. 003-2006, 1-10-06; Ord. No. 14-2006, 4-11-06)

**State Law Reference--**Authority of city to alter speed limits established by state law, Code of Virginia, §46.2-1300.

### **SECTION 14-28. DRIVING WHILE UNDER INFLUENCE OF ALCOHOL OR DRUGS; ADOPTION OF STATE LAW.**

Article 2 (Section 18.2-266, *et seq.*) of Chapter 7 of Title 18.2, Code of Virginia, is hereby adopted and made a part of this chapter as fully as though set out at length herein. It shall be unlawful for any person within the City to violate or fail, neglect, or refuse to comply with any section of the Code of Virginia, as adopted by this section.

**State Law References--**General authority of city to prohibit operation of vehicles while under the influence of alcohol or drugs, Code of Virginia, §15.1-132; authority to adopt state law on the subject, Code of Virginia, §46.2-1313.

### **SECTION 14-28.1. REIMBURSEMENT OF EXPENSES INCURRED IN RESPONDING TO DUI INCIDENT.**

Any person who is convicted of a violation of Section 14-28 of this Code, or of a violation of §§18.2-51.4, 18.2-266, or §29.1-738 of the Code of Virginia, 1950, as amended, when his operation of a motor vehicle, engine, train, or watercraft while so impaired is the proximate cause of any accident or incident resulting in an appropriate

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emergency response, shall be liable in a separate civil action to the City of Winchester, Virginia, or to any volunteer rescue squad, or both, which may provide such emergency response for the reasonable expense thereof, in an amount not to exceed \$1,000 in the aggregate for a particular accident or incident occurring within the said City's corporate limits. In determining the "reasonable expense", the City may, at its sole option, bill a flat fee of \$100, or, a minute-by-minute accounting of the actual costs incurred.

As used in this Section, the words "appropriate emergency response" shall include all costs of providing law-enforcement, fire-fighting, rescue, and emergency medical services.

The provisions of this Section shall not preempt or limit any remedy available to the Commonwealth, to the City of Winchester, or to any volunteer rescue squad to recover the reasonable expenses of an emergency response to an accident or incident not involving impaired driving or operation of a vehicle as set forth hereinabove. (Ord. No. 012-2002, 05-14-02)

**State Law Reference** – Authority for above section, Code of Virginia, §15.2-1716

### **SECTION 14-29.     LIMITATION ON BACKING.**

The operator of a vehicle in the City shall not back such vehicle unless such movement can be made with safety and without interfering with other traffic. (Code 1959, §15-40).

### **SECTION 14-30.     BLOCKING INTERSECTIONS.**

No operator of a vehicle shall enter an intersection or a marked crosswalk unless there is sufficient space beyond such intersection or crosswalk in the direction in which such vehicle is proceeding to accommodate the vehicle without obstructing any traffic control signal indication to proceed. (Code 1959, §15-41).

### **SECTION 14-31.     TRUCK ROUTES.**

All motor trucks passing through the City shall proceed on the following streets:

1.     *Amherst Street*, from Pennsylvania Railroad to the corporate limits of the City.
2.     *Apple Blossom Drive*, from Millwood Avenue to Jubal Early Drive.
3.     *Berryville Avenue*, from National Avenue to the corporate limits of the City.
4.     *Boscawen Street*, from Amherst Street to Cameron Street.
5.     *Braddock Street*, from Wyck Street to Valley Avenue.
6.     *Cameron Street*, from Gerrard Street to North Loudoun Street.
7.     *Cedar Creek Grade*, from Valley Avenue to the corporate limits of the City.
8.     *Commercial Street*, from Cameron Street to Fairmont Avenue.



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9. *East Lane*, from Piccadilly Street to National Avenue.
10. *Fairmont Avenue*, from the corporate limits of the City to Wyck Street.
11. *Fort Collier Road*.
12. *Gerrard Street*, from Braddock Street to Cameron Street.
13. *Jubal Early Drive*, from Millwood Avenue to Valley Avenue.
14. *Middle Road*, from Valley Avenue to the west corporate limits of the City.
15. *Millwood Avenue*, from Cameron Street to the corporate limits of the City.
16. *National Avenue*, from East Lane to Berryville Avenue.
17. *North Loudoun Street*, from the corporate limits of the City to Wyck Street.
18. *Papermill Road*, from Pleasant Valley Road to the south corporate limits of the City.
19. *Piccadilly Street*, from Braddock Street to East Lane.
20. *Pleasant Valley Road*, from Berryville Avenue to Papermill Road.
21. *Valley Avenue*, from Braddock Street to the corporate limits of the City.
22. *Wyck Street*, from Cameron Street to Fairmont Avenue.

(Code 1959, §15-96; Ord. No. 003-79, 1-9-79; Ord. No. 013-82, 8-10-82; Ord. No. 009-90, 3-13-90; Ord. No. 041-93, 11-09-93)

**State Law Reference**--Authority to designate truck routes, Code of Virginia, §46.2-1304.

### **SECTION 14-31.1. TRUCKS PROHIBITED ON DESIGNATED STREETS; EXCEPTIONS.**

Trucks are prohibited from using all streets or portions of streets not identified in §14-31 except for the purpose of receiving loads or making deliveries on such street. (Ord. No. 041-93, 11-09-93)

### **SECTION 14-32. SNOW EMERGENCY ROUTES DESIGNATED.**

The following streets within the City are to be designated as snow emergency routes and posted according to state standards at intervals of not less than one thousand, five hundred (1,500) feet as specified in the Virginia Manual on Uniform Traffic Control Devices for Streets and Highways:

1. *Amherst Street*, from Boscawen Street to Route 37 (U. S. Route 50).
2. *Boscawen Street*, from Braddock to Amherst Street (U. S. Route 50).
3. *Braddock Street*, from Boscawen Street to Valley Avenue (U.S. Routes 50 and 11).
4. *Valley Avenue*, from Loudoun Street to corporate limits (U.S. Route 11).
5. *Gerrard Street*, from Braddock Street to Cameron Street (U.S. Routes 50 and 11).
6. *Millwood Avenue*, from Cameron Street to Frontage Road (U.S. Routes 17 and 50).

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7. *Cameron Street*, from Gerrard Street to Loudoun Street (U.S. Route 11).
8. *Loudoun Street*, from Cameron Street to corporate limits (U.S. Route 11).
9. *Fairmont Avenue*, from Piccadilly Street to corporate limits (U.S. Route 522).
10. *Piccadilly Street*, from Fairmont Avenue to East Lane (U.S. Routes 50, 7, and 522).
11. *East Lane*, from Piccadilly Street to National Avenue (U.S. Route 7).
12. *National Avenue*, from East Lane to Berryville Avenue (U.S. Route 7).
13. *Berryville Avenue*, from National Avenue to Ross Street (U.S. Route 7).
14. *Stewart Street*, from Gerrard Street to Boscawen Street.
15. *Washington Street*, from Gerrard Street to Fairfax Lane.
16. *Cork Street*, from Washington Street to Academy Lane.
17. *Clifford Street*, from Washington Street to Handley Avenue. (Ord. of 6-14-78)

### **SECTION 14-33. OPERATION OF MOTOR VEHICLES DURING SNOW EMERGENCY; CLEARING OF STREETS; DURATION OF EMERGENCY.**

- (a) Whenever the city manager declares snow plan B or C effective, it shall be unlawful for any person to operate a motor vehicle, which is not equipped with effective tire chains or effective snow treads, on any of the streets or alleys within the City.
- (b) When snow plan B is declared, the public works department shall use the best possible equipment and methods to clear the streets and highways in the City, beginning with the snow emergency routes in the order listed in snow plan B.
- (c) Snow emergency procedures shall remain in effect until all snow emergency routes have been declared clear by the city manager, not to exceed twenty-four (24) hours from the last snow.
- (d) During the period from the time snow plan B is declared until the time snow emergency routes are declared clear, it shall be unlawful for any person to park or abandon a vehicle on any snow emergency route designated by this article, or to obstruct or impede traffic on any snow emergency route designated by this article, when such vehicle is not equipped with effective snow tires or chains.
- (e) Notwithstanding any other provision of this Code, upon information that a vehicle is parked, stalled, stuck or abandoned on any snow emergency route designated by this article, during the time snow plan B or C is in effect, the chief of police shall authorize immediate removal and storage of the vehicle.
- (f) The cost of removing and storing any vehicles towed or otherwise removed under subsection (e) of this section shall be charged to the owner and shall be due and payable prior to the release of any such vehicle to the owner.

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- (g) Any person convicted of violating any provision of this section shall be fined not more than twenty-five dollars (\$25.00) for each offense. (Code 1959, §22-21.2; Ord. of 6-14-78)

**State Law Reference**--Regulation of operation of vehicles in snow, sleet, etc.; Code of Virginia, §46.2-1302.

### **SECTION 14-34. REPEALED.**

(Ord. No. 036-99, 12-14-99)

**Editor's Note**--Provisions of previous Section 14-34 has been re-enacted as Section 26-33.

### **SECTIONS 14-35 - 14-44. RESERVED.**

## **ARTICLE IV. STOPPING, STANDING AND PARKING**

### **DIVISION 1. GENERALLY**

#### **SECTION 14-45. GENERAL AUTHORITY OF CHIEF OF POLICE RELATIVE TO PARKING.**

The chief of police is hereby authorized and directed to determine and define street areas within which the volume of vehicular traffic is such as to require restrictions upon the parking of vehicles; to classify vehicles with reference to parking; to designate the time, place and manner in which such vehicles may be allowed to park upon the streets; and to make such rules and regulations, not inconsistent with any provision of this article or other ordinance, as traffic conditions may require in various areas and under the varying conditions which may prevail at different times. It shall be the duty of the public works director, upon the promulgation of such regulations and before the same shall become effective, to give such public notice thereof, by establishing and posting signs or otherwise, as may be reasonably adequate to make clear to the operators of vehicles in "no parking" or "restricted parking" areas the existence, nature and requirements of such regulations. From and after the effective date of such regulations, it shall be unlawful for

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any person to stop or park any vehicle in any restricted or prohibited area otherwise than in accordance with such regulations and the signs or other markings so posted. (Code 1959, §15-97; Ord. of 7-13-76; Ord. No. 041-93, 11-09-93)

**State Law Reference**--Authority for above section, Code of Virginia, §46.2-1220.

### **SECTION 14-46. PARKING PROHIBITED IN SPECIFIED PLACES.**

- (a) No person shall park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:
1. On a sidewalk.
  2. In front of a public or private driveway.
  3. Within an intersection.
  4. Within fifteen (15) feet of a fire hydrant.
  5. On a crosswalk.
  6. Within twenty (20) feet of a crosswalk at an intersection.
  7. Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway.
  8. Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by official signs or markings.
  9. Within fifty (50) feet of the nearest rail of a railroad grade crossing.
  10. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of the entrance, when properly sign posted.
  11. Alongside or opposite any street excavation or obstruction, when such parking would obstruct traffic.
  12. On the roadway side of any vehicle parked at the edge or curb of a street.
  13. Upon any bridge or other elevated structure upon a street or highway or within a tunnel.

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14. At any place where official signs prohibit parking, or at any place where the side of the street or adjacent curb is painted solid yellow.
15. In any fire lane or traffic lane, where indicated by markers or signs.
  - (b) No person other than a police officer shall move a vehicle into any such prohibited area or away from a curb such distance as is unlawful.
  - (c) Any vehicle parking within fifteen (15) feet of a fire hydrant or in a fire lane, in violation of subsection (a)(4) or (a)(15) of this section, may be removed by or under the direction of the police department, where such removal is indicated by "tow-away zone" signs. (Code 1959, §§15-32, 15-99; Ord. of 4-12-77; Ord. No. 023-91, 5-14-91)

**Cross references**--Stopping or parking conveyance carrying live animals prohibited during certain hours, §5-5; open storage of inoperative vehicles in certain zoning districts, §14-25; parking of house trailers and mobile homes, §14-26; standing of vehicles on railroad tracks, §22-3.

**State Law References**--General authority of city to regulate parking, Code of Virginia, §46.2-1220; Parking in prohibited places, Code of Virginia, §46.2-1239.

### **SECTION 14-47. PARKING OF TRUCKS IN RESIDENTIAL SECTIONS OR IN FRONT OF CHURCHES.**

- (a) It shall be unlawful for any person to park any truck or trailer, defined below on any street in a residential district or on any street in front of any church or place of worship. (Ord. No. 041-93, 11-09-93)

For the purposes of this section.

1. The term truck shall mean any truck as defined in Virginia Code §46.2-100;
  2. The term trailer shall mean any trailer or semitrailer as defined in Virginia Code §46.2-100, having a total length of twelve (12) feet or more, including tongue and hitch. (Ord. No. 001-97, 1-14-97)
- (b) The provisions of this section shall not apply to trucks while making deliveries or pickups of materials and commodities. (Code 1959, §15-103)

**Cross reference**--Standing of vehicles on railroad tracks, §22-3.

**State Law Reference**--Authority to regulate parking, Code of Virginia, §46.2-1220.

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### **SECTION 14-48. PARKING FOR SALE OF AGRICULTURAL PRODUCTS.**

The chief of police shall have the power to designate streets, parts of streets or other areas where vehicles may be parked for the sale of agricultural products. It shall be unlawful for any person to park any vehicle for the sale of agricultural products except in those areas or those streets or parts of streets so designated by the chief of police. (Code 1959, §15-101)

### **SECTION 14-49. LIGHTS ON PARKED VEHICLES.**

No lights need be displayed on any vehicle parked in accordance with the provisions of this article. (Code 1959, §15-110).

**State Law Reference**--Authority for above section, Code of Virginia, §46.2-1037.

### **SECTION 14-50. PARKING, STOPPING, OR STANDING ON PRIVATE PROPERTY; PARKING IN "HANDICAPPED ONLY" SPACE**

- (a) No person shall stand or park a vehicle on any private lot or lot area without the express or implied consent of the owner thereof. Whenever signs or markings have been erected on any lot or lot area contiguous or adjacent to a street, thoroughfare, or alley indicating that no vehicles are permitted to stand thereon, it shall be unlawful for any person to drive a vehicle across any curb or lot line or over any driveway from a street or alley into such lot or lot area for the purpose of standing or parking such vehicle, or for any person to stop, stand, or park any vehicle in such lot or lot area.
- (b) No person shall stand or park a vehicle in any parking space posted for "Handicapped Parking Only" or like designation unless such vehicle bears (i) State license plates with "handicapped" designation; or (ii) State decal or placard designating handicapped use. Police officers may issue a summons for vehicles parked in spaces reserved for use by the handicapped and not identified as prescribed herein without the necessity of a warrant being obtained by the owner of any private parking lot or lot area. When any such summons is paid pursuant to §14-55 of this Code, the fine shall be as indicated in §14-55(b)(3); otherwise, any person convicted of violating this subsection shall be punished by a fine of not less than One Hundred Dollars (\$100.00), nor more than Five Hundred Dollars (\$500.00). (Code 1959, §15-102; Ord. No. 005-84, 3-13-84; Ord. No. 019-2002, 8-13-02).

**State Law References**--Authority for above subsection (b) - Code of Virginia, §46.2-1237, § 46.2-1239.

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### **SECTION 14-51. BACKING TO CURB.**

No vehicle shall be backed up to a curb, except during the time actually engaged in loading or unloading merchandise therefrom; provided, however, that on Loudoun Street, between Piccadilly and Cork Street, no vehicle shall be backed up to a curb for any purpose, without a special permit from the police department. (Code 1959, §15-102).

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## **MOTOR VEHICLES AND TRAFFIC**

### **SECTION 14-52.     LOADING ZONES, BUS STOPS AND TAXICAB STANDS - DESIGNATION.**

- (a)     The chief of police is hereby authorized, when in his judgment it is in the public interest to do so, to set apart on any of the streets of the City spaces for loading and unloading merchandise, bus stops, taxicab stands, and other like places in which no general parking shall be permitted or in which parking time is limited.
- (b)     It shall be the duty of the public works director, upon the promulgation of regulations under this section, and before the same shall become effective, to give such public notice thereof by establishing and posting or erecting signs or otherwise as may be reasonably adequate to make clear to the operators of vehicles the nature and requirements of such regulations, and to maintain such signs. (Ord. No. 041-93, 11-09-93)
- (c)     The designation of taxicab stands under this section shall be subject to the provisions of Section 31-25 of this Code. (Code 1959, §15-98; Ord. of 7-13-76).

### **SECTION 14-53.     SAME - MANNER OF USE.**

- (a)     Where a loading and unloading zone has been set apart and properly designated and identified pursuant to Section 14-52, the following regulations shall apply with respect to use of such areas:
  - 1.       No person shall stop, stand or park a vehicle for any purpose or length of time, other than for the expeditious unloading and the delivery or pickup and loading materials, in any place marked as a curb loading zone during hours when the provisions applicable to such zones are in effect. All delivery vehicles, other than regular delivery trucks using such loading zones, shall be identified by the owner's or company's name in letters three (3) inches high on both sides of the vehicle.
  - 2.       The driver of a passenger vehicle may stop temporarily in a space marked as a curb loading zone for the purpose of, and while actually engaged in, loading or unloading passengers or bundles when such stopping does not interfere with any vehicle used for transportation of materials which is waiting to enter or is about to enter such loading space.
- (b)     Where a bus stop or taxicab stand has been set apart and is properly designated and identified pursuant to Section 14-52, the following regulations shall apply to the use thereof: No person shall stop, stand or park a vehicle, other than a bus, in a bus stop or other than a taxicab in a taxicab stand, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in the expeditious loading or unloading of passengers when such

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stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone. (Code 1959, §§15-106, 15-107).

### **SECTION 14-54. PARKING TICKETS.**

Whenever any vehicle without a driver is found parked in violation of any provision of this article, or in violation of §14-11 Article II, 14-17, *et seq.*, 14-59, or 14-60 of this chapter, the police officer finding such vehicle shall take the number of the parking meter, if any, at which the vehicle is parked and the license number of such vehicle, and may take any other information displayed on the vehicle which may identify its operator, and shall conspicuously affix to such vehicle a traffic citation or notice, in writing, on a form provided for that purpose. Such notice shall specify the violation and shall inform the operator when and where he may report with reference to such violation. Such officer shall give a proper accounting of each and every traffic citation or notice, report the violation to the police department, and make proper complaint. (Code 1959, §§15-29, 15-126; Ord. No. 021-88, 4-12-88; Ord. No. 002-91, 1-15-91).

### **SECTION 14-55. VOLUNTARY PAYMENT OF PARKING FINE.**

- (a) The operator of any vehicle to which a citation or notice is attached pursuant to §14-54 may waive his right to appear and to be formally tried for the offense as set forth in the citation or notice, and upon voluntary payment of the fine prescribed by subsection (b) below within forty-eight (48) hours at the office of the chief of police, shall not be required to appear for trial upon the charge for which the notice or citation was issued. The failure of such operator to make such payment within forty-eight (48) hours shall render such operator subject to the penalty prescribed in §14-1. (Ord. No. 019-2002, 8-13-02)
- (b) The fine to be paid pursuant to subsection (a) above as follows:
  - 1. Violating or parking in violation of §14-69 or 14-70, six dollars (\$6.00) for the first issuance of a citation, and eight dollars (\$8.00) for the second issuance of a citation within an eight (8) hour period. If the fine for such violation is not paid within forty-eight (48) hours, the violator shall pay a fine of twelve dollars (\$12.00) per violation, in satisfaction of each such violation. (Effective January 1, 1991, Ord. No. 037-90, 11-13-90; Ord. No. 019-2002, 8-13-02)
  - 2. Violation of §14-46(a)(4), parking within fifteen (15) feet of a fire hydrant, or (a)(15), parking in a fire lane or traffic lane, fifty dollars (\$50.00). (Ord. No. 019-2002, 8-13-02)

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3. Parking in a space posted for "Handicapped Parking Only" or like designation in violation of subsections 14-46(a)(14) or 14-50(b) of this Code when the vehicle so parked displays neither State decal designating handicapped use or City "Parking Permit - Handicapped Individual"; one hundred dollars (\$100.00). (Ord. No. 019-99, 7-13-99)
4. All other parking violations subject to this section, eight dollars (\$8.00). (Ord. No. 019-2002, 8-13-02)
5. Fifteen days after the issuance of a citation, if the charge has not been contested in the manner provided by this chapter or paid, there shall be added a late penalty equal to twice the original penalty, or ten dollars (\$10.00) if the original penalty is ten dollars (\$10.00) or greater.

Thirty days after the issuance of a citation, if the charge has not been contested in the manner provided by this chapter or paid, the late penalty shall be equal to four (4) times the original penalty, or twenty dollars (\$20.00) if the original penalty is ten dollars (\$10.00) or greater. (Code 1959, §§15-31, 15-32, 15-127; Ord. of 4-12-77; Ord. No. 006-82, 3-09-82; Ord. No. 005-84, 3-13-84; Ord. No. 020-88, 4-12-88; Ord. No. 002-91, 1-15-91).

- (c) The operator of any vehicle to which a citation or notice is attached pursuant to §14-54 may contest the offense set forth in the citation or notice within thirty (30) days of the issuance of the citation or notice by executing a form for that purpose at the police department.

By executing the form, the person shall waive any further notice of the hearing on the charge before the court; and shall authorize the court to try the charge in the person's absence.

The chief-of-police shall develop a form for such purpose. The chief shall see that each such citation or notice issued after 1 June, 1994 shall inform the person charged of his or her rights and obligations under this subsection.

The form shall set out the following: (1) specific charge; (2) the date and time of the hearing on the charge; (3) a notice that by signing the form, the person waives any further notice of the hearing on the charge; (4) a notice that the charge may be tried in the person's absence.

The police department shall forward all such executed forms to the court for hearing within twenty (20) days of execution by the person charged.

This subsection shall be effective 1 June, 1994. (Ord. No. 016-94, 04-12-94)

**State Law Reference**--Code of Virginia, §46.2-1220.

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### **SECTION 14-56. NOTICE PREREQUISITE TO ISSUANCE OF SUMMONS FOR PARKING VIOLATION.**

Before any summons shall be issued for the prosecution of a violation of any provision of this article regulating parking, the violator shall have been first notified, by mail at his last known address or at the address shown for such violator on the records of the State division of motor vehicles, that he may pay the fine as provided for such violation within five (5) days of receipt of such notice, and the officer issuing such summons shall be notified that the violator has failed to pay such fine within such time. The notice to the violator required by this section shall be contained in an envelope bearing the words "Law Enforcement Notice" stamped or printed on the face thereof in type at least one-half inch in height. (Code 1959, §15-29.1; Ord. of 2-14-71) .

**State Law Reference**--Similar provisions, Code of Virginia, §46.2-941.

### **SECTION 14-57. PRESUMPTIONS IN PROSECUTIONS FOR PARKING.**

In any prosecution charging that a vehicle has been parked in violation of any provision of this article or any other ordinance of the City, proof that the vehicle described in the complaint, summons, or warrant was parked in violation of such provision, together with proof that the defendant was, at the time of such parking, the registered owner of the vehicle as required by Code of Virginia, Title 46.2, Chapter 3 (Section 46.2-600, *et seq.* ) shall constitute in evidence a prima facie presumption that such registered owner of the vehicle was the person who parked the vehicle at the place where, and for the time during which, such violation occurred. (Code 1959, §§15-97, 15-103, 15-128; Ord. of 7-13-76).

**State Law Reference**--Similar provisions, Code of Virginia, §46.2-1220.

### **SECTION 14-58. ILLEGAL PARKING ON RENTED SPACES.**

It shall be unlawful for any person to park any vehicle in any parking space owned by the City or the Winchester Parking Authority which is rented on a regular basis, unless such person shall be the lessee of that space. (Ord. No. 010-87, 4-14-87) .

### **SECTION 14-59. PARKING WITH RIGHT WHEEL TO CURB.**

It shall be unlawful for any person to stop or park any vehicle, trailer or semitrailer except close to and parallel to the right edge of the curb or roadway, except that a vehicle may be stopped close to and parallel to the left curb or edge of the roadway on one-way streets, or except as provided in lawful angle parking area. (Ord. No. 002-91, 1-15-91).

**State Law Reference**--Code of Virginia, §46.2-889.

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### **SECTION 14-60. NON-EMERGENCY REPAIRS TO VEHICLES ON STREET.**

It shall be unlawful for any person to carry out any non-emergency repairs to any vehicle which is located on a street between the edges of the curb or the outer edges of the paved roadway surface.

For the purposes of this section, a non-emergency repair shall be any repair to a vehicle other than a minor repair necessitated by the breakdown of the vehicle while traveling on the street such as a flat tire, but shall not include any normal maintenance or major repair of damage, malfunction, or wear and tear to a vehicle. (Ord. No. 002-91, 1-15-91).

### **SECTION 14-61. TOWING VEHICLES FOR NON-PAYMENT OF PARKING CITATIONS.**

Whenever there is found any motor vehicle parked on the public streets or public grounds within the City against which there are three or more outstanding unpaid or otherwise unsettled parking violation citations issued pursuant to §14-54 of this chapter, such vehicle may, by towing or otherwise, be removed or conveyed to a place designated by the chief of police for the temporary storage for such vehicles. Any removal or conveyance of the vehicle pursuant to this section shall be by, or under the direction of, an officer of the police department.

It shall be the duty of the officer removing such motor vehicle, or under whose direction such vehicle is removed, or other employee of the police department, to inform as soon as practicable the owner of or person responsible for the removed vehicle of the fact of the towing with a description of the dates and charges of the prior unsettled parking violations.

The owner or other person responsible for the vehicle shall be permitted to repossess or to secure the release of the vehicle by payment of all outstanding parking violation citations for which the vehicle was removed and, where applicable, by obtaining a current City sticker, and by payment of all reasonable costs incidental to the removal and storage of the vehicle and efforts to locate the owner of or person responsible for the vehicle. Should such owner or person responsible for the vehicle fail or refuse to pay such fines and costs, or should the identity or whereabouts of such person be unknown or unascertainable, such vehicle may be sold in accordance with the procedures set forth in the Code of Virginia, §46.2-203, as amended. (Ord. No. 002-91, 1-15-91).

**State Law Reference--** Code of Virginia, §46.2-1216.

### **SECTION 14-62. RESERVED.**

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### DIVISION 2. PARKING METERS

#### SECTION 14-63. DEFINITIONS.

The following words and phrases, when used in this division, shall, for the purposes of this division, have the meanings respectively ascribed to them in this section:

*Operator; driver.* The word "operator" or "driver" shall mean and include every individual who shall operate a vehicle as the owner thereof, or as the agent, employee or permittee of the owner, or who is in actual physical control of a vehicle.

*Parking meter.* The words "parking meter" shall mean and include any mechanical device or meter, not inconsistent with this division, placed or erected for the regulation of parking by authority of this division.

*Parking meter space.* The words "parking meter space" shall mean any space within a parking meter zone, adjacent to a parking meter and duly designated for the parking of a single vehicle by lines painted or otherwise durably marked on the curb or on the surface of the street adjacent to or adjoining the parking meter.

*Parking meter zone.* The words "parking meter zone" shall mean and include any restricted street upon which parking meters are installed and in operation.

*Park; parking.* The words "park" and "parking" shall mean the standing of a vehicle, whether occupied or not, upon a street otherwise than temporarily for the purpose of, and while actually engaged in, receiving or discharging passengers or loading or unloading merchandise or in obedience to traffic regulations, signs or signals or an involuntary stopping of the vehicle by reason of causes beyond the control of the operator of the vehicle.

*Vehicle.* The word "vehicle" shall mean any device in, upon or by which any person or property is or may be transported upon a highway, except a device which is operated upon rails or tracks. (Code 1959, §15-111)

#### SECTION 14-64. METER ZONES ESTABLISHED.

The following named and described areas, streets or portions of streets, and such other areas, streets or portions of streets as may hereafter be included in this section by amendment thereto, including, except as otherwise provided, all frontage on such areas, streets or portions of streets, lying within the corporate limits of the City, shall each constitute a parking meter zone:

1. *Amherst Street*, both sides, from Braddock Street to Washington Street.

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2. *Boscawen Street*, north side, from Stewart Street to Indian Alley and from Cameron Street to Kent Street; and south side, from Stewart Street to Indian Alley and from Kent Street to East Lane.
3. *Braddock Street*, both sides, from Fairfax Lane to Cork Street.
4. *Cameron Street*, both sides, from Baker Street to Cork Street.
5. *Clifford Street*, both sides, from Loudoun Street to Cameron Street.
6. *Cork Street*, both sides, from Braddock Street to Cameron Street.
7. *Fairfax Lane*, south side, from Cameron Street to Library Lane.
8. *Loudoun Street*, west side, from Peyton Street to Fairfax Lane and from Cork Street to Clifford Street; and east side, from Cork Street to Clifford Street.
9. *Piccadilly Street*, north side, from Washington Street to Kent Street; and south side, from Washington Street to East Lane.
10. Reserved.
11. *Washington Street*, both sides, from Wolfe Street to Fairfax Lane.
12. *Wolfe Street*, both sides, from Indian Alley to Braddock Street.
13. *Kent Street*, west side, from Fairfax Lane to Billings Alley (a.k.a. Fairfax Alley); and east side, from Piccadilly Street to Town Run.
14. All parking lots operated by the Winchester Parking Authority, as described below:
  - a. East side of unit block of North Cameron Street.
  - b. West side of 100 block of North Cameron Street.
  - c. Northeast corner of Loudoun Street and Fairfax Lane.
  - d. West side of unit block of South Loudoun Street.
  - e. West side of 100 block of South Loudoun Street.
  - f. Southwest corner of Cork Street and South Loudoun Street.
  - g. West side of unit block of North Kent Street.
  - h. East side of unit block of North Braddock Street.

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- i. West side of unit block of North Braddock Street.
- j. Northwest corner of Cork Street and Stewart Street.

(Code 1959, §15-112; Ord. No. 008-79, 2-13-79; Ord. No. 019-84, 10-09-84; Ord. No. 041-93, 11-09-93; Ord. No. 015-98, 5-12-98).

**Cross reference**--Fraudulent use of parking meters, §14-4.

**State Law Reference**--Authority of city with respect to parking meters, Code of Virginia, §42.1-1220.

### **SECTION 14-65. RESPONSIBILITIES OF FINANCE AND ADMINISTRATION COMMITTEE AND WINCHESTER PARKING AUTHORITY.**

The Finance and Administration Committee of the City Council shall be responsible for the regulation, control, rates up to the maximums set forth in §14-66 below, and use of parking meters installed as provided in this division. The Public Safety Committee shall be responsible for the location of meters within the meter zones. The Winchester Parking Authority shall be responsible for the operation and maintenance of such parking meters. (Code 1959, §15-115; Ord. No. 036-90, 11-13-90; Ord. No. 041-93, 11-09-93).

### **SECTION 14-66. INSTALLATION; REQUIRED LEGEND AND SIGNALS.**

- (a) In the parking meter zones established by this division, at the locations designated by the Public Safety Committee, the Winchester Parking Authority shall cause parking meters to be installed upon the curb or sidewalk immediately adjacent to the parking meter spaces provided for in §14-67. Such meter shall be placed not more than two (2) feet from the curb and within the designated lines of the parking meter space to which the parking meter is adjacent. (Ord. No. 041-93, 11-09-93)
- (b) Each parking meter installed as provided in this section shall indicate, by proper legend, the legal parking time established by the City for the particular parking meter. Each such meter shall be set so as to display a signal showing legal parking upon the deposit of the appropriate coin or coins, lawful money of the United States, for the period of time prescribed, which parking meters shall require the deposit of coin(s) of the denominations of nickels, dimes, or quarters permitting parking at a charge not to exceed twenty-five cents (\$0.25) per one-half hour. Each such meter shall be so arranged that, upon the expiration of the lawful time limit, it will indicate by a proper visible signal that the lawful parking period has expired. (Code 1959, §§15-113, 15-118, 15-119; Ord. No. 036-90, 11-13-90; Ord. No. 23-2006, 6-13-06).



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### **SECTION 14-67. MARKING AND MANNER OF PARKING IN METERED SPACES.**

- (a) The public works director shall mark off individual parking meter spaces in the parking meter zones established by this division. Such meter spaces shall be designated by lines painted or durably marked on the curbing or surface of the street. (Ord. No. 041-93, 11-09-93)
- (b) It shall be unlawful for any person to park any vehicle across any line or marking of a parking meter space designated as provided in this section or in such position that the vehicle shall not be entirely within the area designated by such lines or markings. (Code 1959, §§15-114, 15-123; Ord. of 7-16-76).

### **SECTION 14-68. WHEN METERS SHALL BE OPERATED.**

Parking meters installed pursuant to this division shall be operated between the hours of 9:00 A.M. and 4:00 P.M. every day from Monday through Friday, except for the following designated holidays: January first; the two (2) days of the annual Shenandoah Valley Apple Blossom Festival; May thirtieth; July fourth; Labor Day; November eleventh; Thanksgiving Day and Christmas Day. When any of the aforesaid holidays fall on a Sunday, parking meters need not be operated on the following Monday. (Code 1959, §15-117; Ord. No. 019-84, 10-09-84; Ord. No. 041-91, 10-08-91; Ord. No. 003-97, 1-14-97).

### **SECTION 14-69. DEPOSIT OF COIN REQUIRED; OVERTIME PARKING.**

- (a) Except for vehicles having license plates issued by the Commonwealth of Virginia bearing Purple Heart or Former POW designations, or in a period of emergency determined by an officer of the fire department or police department, or in compliance with the directions of a police officer or traffic control sign or signal, and subject to the provisions of §14-68, when any vehicle is parked in any parking meter space alongside or next to which a parking meter installed as provided in this division is located, the operator of such vehicle shall, upon entering such parking meter space, immediately deposit or cause to be deposited in such meter proper coin of the United States as is required for such parking meter and is designated by proper directions on the meter and, when required by the directions on the meter, the operator of such vehicle after the deposit of the proper coin or coins shall also set in operation the timing mechanism on such meter in accordance with directions properly appearing thereon. It shall be unlawful for any person to fail to deposit such proper coin and to set the timing mechanism in operation when so required.
- (b) Upon the deposit of such coin and the setting of the timing mechanism in operation, when so required, the parking meter space may be lawfully occupied by such vehicle during the period of time which has been prescribed for the part of the street in which such parking meter space is located.

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- (c) Any person placing a vehicle in a parking meter space adjacent to a parking meter which indicates that unused time has been left in the meter by the previous occupant of the space shall not be required to deposit a coin, so long as his occupancy of such space does not exceed the indicated unused parking time.
- (d) If any vehicle, except a vehicle having license plates issued by the Commonwealth of Virginia bearing Purple Heart or Former POW designations, shall remain parked in any parking meter space beyond the parking time limit set for such space, and if the meter indicates such illegal parking then, and in that event, such vehicle shall be considered as parking overtime and beyond the period of legal parking time.
- (e) It shall be unlawful for any person to cause, allow, permit or suffer any vehicle registered in the name of, or operated by, such person, except a vehicle having license plates issued by the Commonwealth of Virginia bearing Purple Heart or Former POW designations, to be parked overtime or beyond the period of legal parking time established for any parking meter zone established by this division. It shall likewise be unlawful for any person to permit any vehicle, except a vehicle having license plates issued by the Commonwealth of Virginia bearing Purple Heart for Former POW designations, to remain in any parking meter space adjacent to any parking meter installed under this division while such meter is displaying a signal indicating that the vehicle occupying such parking space has already been parked beyond the period prescribed for such parking meter space. (Code 1959, §§15-116, 15-120 - 15-122, Ord. No. 012-99, 06-08-99).

### **SECTION 14-70. DEPOSIT OF COIN FOR PURPOSE OF EXTENDING PERIOD FOR LEGAL PARKING.**

It shall be unlawful for any person to deposit in any parking meter installed under this division any coin for the purpose of extending the parking time beyond the maximum legal parking time for the particular parking meter zone. (Code 1959, §15-151).

### **SECTION 14-71. PURPOSE AND USE OF DEPOSITS.**

The coins deposited in parking meters under this article are required and shall be used to defray the expense of proper regulation of traffic upon the public streets of the City; to provide for the cost of supervision, regulation and control of the parking of vehicles in parking meter zones; and to cover the cost of purchase, supervision, protection, inspection, installation, operation, maintenance, control and use of parking meters. (Code 1959, §15-132)

### **SECTION 14-72. COLLECTION OF DEPOSITS.**

The city treasurer shall appoint some person to make regular collections of the money deposited in parking meters under this division. Such person so appointed shall remove

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from the parking meters the containers therein containing the coins so deposited in such meters and deliver such coins to the city treasurer. (Code 1959, §15-131)

### **SECTION 14-73. DAMAGING, TAMPERING WITH, ETC., METERS.**

It shall be unlawful for any person to deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter installed under this division. Any person violating this section shall be guilty of a Class 1 misdemeanor. (Code 1959, §15-125)

**Cross reference--**Use of slugs in parking meters, §14-4.

### **SECTION 14-74. BUS STOPS, TAXICAB STANDS, ETC., IN METER ZONES.**

Nothing in this division shall be construed as prohibiting the City from providing for bus stops, taxicab stands, loading zones and other similar areas or places within the parking meter zones established by this division. (Code 1959, §15-129)

**Cross reference--**Taxicab stands generally, §31-25.

## **DIVISION 3. PERMIT PARKING**

### **SECTION 14-75. PURPOSE.**

In order to reduce hazardous traffic conditions resulting from the use of streets within areas zoned for residential uses for the parking of vehicles by persons not residing therein; to protect those areas from polluted air and from excessive noise, trash, and refuse caused by the entry of such vehicles; to protect the residents of those areas from unreasonable burdens in gaining access to their residences; to preserve the residential character of those areas; to promote efficiency in the maintenance of those streets in a clean and safe condition; to preserve the value of the property in those areas; to preserve the safety of children and other pedestrians; and to promote and preserve the peace, good order, comfort, convenience, and welfare of the inhabitants of the city, it is necessary to establish a system of permit parking. (Ord. No. 017-98, 6-9-98)

### **SECTION 14-76. DEFINITION.**

For the purposes of this division, the term “resident” shall be deemed to mean a person who customarily resides and maintains a place of abode within the permit parking district,

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or who owns realty abutting a street or public way within such a district upon which a dwelling intended for human habitation is located. (Ord. No. 017-98, 6-9-98)

### **SECTION 14-77. VIOLATIONS.**

- (a) Any person violating the provisions of this division shall, upon conviction thereof, be punished by a fine of not less than ten dollars (\$10.00), nor more than fifty dollars (\$50.00) for each offense.
- (b) In any prosecution charging a violation of this division, proof that the vehicle described in the complaint, summons, or warrant was parked in violation of this ordinance, together with proof that the defendant was at the time of such parking the registered owner of the vehicle, as required by the Code of Virginia, Chapter 3 (Section 46.1-41, et seq.), shall constitute a presumption that such registered owner of the vehicle was the person who parked the vehicle at the place where, and for the time during which, such violation occurred.
- (c) If any person transfers, or allows others to use or possess any parking permit issued to them, or gives false answers upon an application therefor, or uses or continues to use such parking permit after termination or expiration thereof by expiration of time or operation of law or cessation of residence, or violates any of the terms, conditions, rules, or regulations applicable to same, such person shall be guilty of a class 4 misdemeanor. (Ord. No. 017-98, 6-9-98)

### **SECTION 14-78. DESIGNATION OF AREA.**

Should the Chief of Police, based upon studies conducted by the Police Department and in consultation with the Public Safety Committee of Council, ascertain that parking spaces on the streets within a particular residential area or distinct portion of such residential area, not less than the lesser of three hundred and sixty (360) feet or one city block, unless the street in such district is abutted by unimproved land, in which case said minimum lengths shall not apply, are used for the parking of vehicles not belonging to the residents of the particular area to such an extent as to create congestion, excessive noise, air pollution, and/or cause the residents of such areas unreasonable burdens in gaining access to their residences, and that the majority of the contiguous property owners to the streets of such area, or portion thereof, desire the establishment of such area as a permit parking area, then the Chief of Police shall establish such area as a permit parking district.

(Ord. No. 017-98, 6-9-98)

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### **SECTION 14-78.1. APPEAL FROM DESIGNATION.**

Any resident of a permit parking district area may appeal the decision of the Chief of Police to the Public Safety Committee of Council. Notice of appeal shall be in writing and filed with the City Manager within thirty (30) days after the decision is rendered by the Chief of Police. (Ord. No. 017-98, 6-9-98)

### **SECTION 14-78.2. HOURS OF ENFORCEMENT.**

The parking prohibitions in each district area will be enforced between the hours of 7 a.m. and 7 p.m., Monday through Friday. There will be no enforcement of permits from 7 p.m. Friday through 7 a.m. Monday. (Ord. No. 017-98, 6-9-98)

### **SECTION 14-79. EXCEPTIONS.**

The parking prohibitions of this division shall not apply to service or delivery vehicles which are being used to provide services to or make deliveries to residents of the permit parking district. (Ord. No. 017-98, 6-9-98)

### **SECTION 14-80. PERMIT REQUIRED.**

Unless a parking permit, validly issued pursuant to regulations contained in or adopted pursuant to this division, be properly displayed, no vehicle shall be parked upon any street or public way within a permit parking district. (Ord. No. 017-98, 6-9-98)

### **SECTION 14-81. APPLICATION FOR PERMIT.**

Permanent residents within a permit parking district may apply to the Police Department for a permit to park their vehicle(s) upon the streets or public ways of the permit parking district in which such applicant resides. (Ord. No. 017-98, 6-9-98)

#### **SECTION 14-81.1. PERMIT FEES.**

A fee of five dollars (\$5.00) shall be charged each resident for the issuance of one (1) parking permit, and a fee of five dollars (\$5.00) shall be charged each resident for each additional or replacement permit, such fee to be used by the city to defray the cost of enforcement of the provisions of this division. (Ord. No. 017-98, 6-9-98)

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### **SECTION 14-81.2. ISSUANCE.**

Upon proof that the applicant for a permit required by the provisions of this division is a resident of the permit parking district, and upon payment by the applicant of the applicable fee, a parking permit shall be issued to the applicant for each vehicle owned by the applicant. (Ord. No. 017-98, 6-9-98)

### **SECTION 14-81.3. DURATION.**

Permits issued under the provisions of this division shall be valid for a period of one year.  
(Ord. No. 017-98, 6-9-98)

### **SECTION 14-81.4. NONTRANSFERABLE.**

A permit issued under the provisions of this division shall be personal, nonassignable and nontransferable. Each such permit shall be valid only for a specific vehicle. (Ord. No. 017-98, 6-9-98)

### **SECTION 14-81.5. VISITOR PASSES.**

Each household resident shall receive three (3) visitor passes at no additional charge. Whenever a visitor is parked in the permit parking district, the visitor pass must be displayed on the vehicle's dash and in plain view. No resident may use a visitor pass for parking in lieu of obtaining a parking permit. (Ord. No. 017-98, 6-9-98)

### **SECTION 14-82. SIGNS.**

The Chief of Police or his duly designated representative shall cause appropriate signs to be placed upon all streets of the permit parking district, such signs to be of such character as to readily inform an ordinarily observant person of the existence of the parking prohibition within said district. (Ord. No. 017-98, 6-9-98)

### **SECTIONS 14-83 - 14-84. RESERVED.**

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### **ARTICLE V. BICYCLES AND MOPEDS**

#### **SECTION 14-85. REGISTRATION OF BICYCLES**

Any resident of the City may register his or her bicycle with the Police Department. The Police Department shall keep a record of all bicycles registered. The record shall contain, at a minimum, the name and address of the owner; the brand, model and description of the bicycle; and the registration number issued for the bicycle.

The Department shall keep on hand stickers or emblems to affix to the frame of a bicycle to carry out the purposes of this section.

The Department shall charge \$1.00 for each registration. The chief shall set the fee so as to cover the expenses of the Department. (Ord. No. 041-93, 11-09-93)

#### **SECTION 14-86. RIDER'S HANDS TO BE ON HANDLEBARS.**

It shall be unlawful for any person to ride a bicycle upon any street without having his, her or their hands upon the handlebars. (Code 1959, §15-178; Ord. No. 041-93, 11-09-93)

**Cross reference**--Disposal of unclaimed bicycles in possession of police department, §20-25.

**State Law Reference**--Rider not to carry package or bundle which prevents keeping at least one hand on handlebar, Code of Virginia, §46.2-906.

#### **SECTIONS 14-87. OPERATION OF MOPEDS ON PUBLIC STREETS; SAFETY EQUIPMENT REQUIRED**

- (a) It shall be unlawful for any person to operate or ride upon a moped, as defined in Section 46.2-100, of the Code of Virginia, 1950, as amended, upon a public street or highway without wearing protective helmets of a type approved by the Superintendent of State Police.
- (b) Violation of this section shall be a traffic infraction, punishable by a fine of not more than fifty dollars (\$50.00).  
(Ordinance No. 034-2003, 11-11-03)

**State Law Reference**—Authority of city to adopt ordinance providing for certain safety equipment for mopeds and penalty for violation, Code of Virginia, §46.2-915.2. See also, Code of Virginia, §46.2-100.

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**SECTIONS 14-88-- 14-111. RESERVED.**

### **ARTICLE VI. PEDESTRIANS**

#### **SECTION 14-112. RIGHT TO CROSS INTERSECTIONS DIAGONALLY.**

Pedestrians may cross an intersection diagonally, when all traffic entering the intersection has been halted by lights, semaphores or signals by a peace or police officer. (Code 1959, §15-135)

**State Law Reference**--Authority for above section, Code of Virginia, §46.2-923.

#### **SECTION 14-113. UNLAWFUL CARRYING OF CERTAIN CANES OR WALKING STICKS.**

It shall be unlawful for any person, unless totally or partially blind or otherwise incapacitated, while on any public street or highway, to carry in a raised or extended position a cane or walking stick which is metallic or white in color or white tipped with red. A violation of this section shall constitute a Class 4 misdemeanor. (Code 1959, §15-143)

**State Law Reference**--Similar provisions, Code of Virginia, §18.2-212.1.

#### **SECTION 14-114. DUTY TO OBEY TRAFFIC CONTROL SIGNS AND SIGNALS AND ORDERS OF TRAFFIC OFFICERS.**

Pedestrians shall obey signs and signals erected on highways or streets for the direction and control of travel and traffic and they shall obey the orders of police officers engaged in directing travel and traffic on the highways and streets. Violations of this section shall be punished by a fine not exceeding two hundred dollars (\$200.00) for each offense. (Code 1959, §15-146; Ord. No. 041-93, 11-09-93)

**State Law Reference**--Authority for above section, Code of Virginia, §46.2-935.

**SECTIONS 14-115 - 14-124. RESERVED.**



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### **ARTICLE VII. ACCIDENTS**

#### **SECTION 14-125. REPORTS BY DRIVERS.**

The driver of a vehicle involved in an accident resulting in injury to or death of any person or total property damage to an apparent extent of one thousand dollars (\$1,000.00) or more shall, within five (5) days after the accident, file, with the police department, a copy of the report required by the Code of Virginia, §46.2-372. Such driver shall also file, with the police department, a copy of any supplemental report filed pursuant to such section. A willful failure to file a report required herein shall constitute a violation of this section. (Code 1959, §15-151; Ord. No. 041-93, 11-09-93)

**Cross reference**--Reports of accidents in which taxicabs are involved, §31-31.

**State Law References**--Authority for above section, Code of Virginia, §46.2-381, § 46.2-894.

#### **SECTION 14-126. REPORTS BY PASSENGERS.**

Whenever the driver of a vehicle is physically incapable of making an immediate or a written report of an accident, as required by this chapter or the state law adopted by this chapter, each other occupant of the vehicle at the time of the accident, if any, who is capable of so doing must make the report required to be made by the driver. A willful failure to make such report shall constitute a violation of this section. (Code 1959, §15-153)

**State Law Reference**--Similar provisions, Code of Virginia, § 46.2-895.

#### **SECTION 14-127. REPORTS BY INVESTIGATING OFFICER.**

Every law-enforcement officer who, in the course of duty, investigates a motor vehicle accident of which report must be made, either at the time of and at the scene of the accident or thereafter and elsewhere, by interviewing participants or witnesses shall, within twenty-four (24) hours after completing the investigation, forward to the police department a copy of the report required by the Code of Virginia, (Code 1959, §15-152).

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### **SECTION 14-128. AUTHORITY OF POLICE TO MOVE VEHICLE INVOLVED IN ACCIDENT.**

Whenever a motor vehicle, trailer or semitrailer involved in an accident is found upon the highways or streets within the City and is so located as to impede the orderly flow of traffic, the police may, at no cost to the owner or operator, remove such motor vehicle, trailer or semitrailer from the highway or street to some point in the vicinity of such accident where such motor vehicle, trailer or semitrailer will not impede the flow of traffic.

**State Law Reference**--Authority for above section, Code of Virginia, §46.2-1212.

### **SECTIONS 14-129 - 14-138. RESERVED.**

## **ARTICLE VIII. ABANDONED VEHICLES**

### **SECTION 14-139. DEFINITIONS.**

For the purposes of this article, the following words and phrases shall have the meanings ascribed to them by this section:

*Abandoned motor vehicle* means a motor vehicle, trailer, or semitrailer or part thereof that:

1. Is inoperable and is left unattended on public property for more than forty-eight (48) hours; or
2. Has remained illegally on public property for a period of more than forty-eight (48) hours; or
3. Has remained without consent on private property, including but not limited to any commercial parking place, motor vehicle storage facility or establishment for the service, repair, maintenance or sale of motor vehicles, whether or not such vehicle was brought onto or left at such property with or without the consent of the owner or person in control of the property, for more than forty-eight (48) hours.

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*Demolisher* means any person whose business is to convert a motor vehicle, trailer or semitrailer into processed scrap or scrap metal or otherwise to wreck or dismantle such vehicles. (Ord. of 2-14-78)

**Cross reference**--Open storage of inoperative vehicles in certain zoning districts, §16-25.

**State Law References**--Authority of city to adopt ordinance similar to this article, Code of Virginia, §46.2-1201. See also, §46.2-1213, 46.2-1217; Similar provisions, Code of Virginia, §46.2-1200.

### **SECTION 14-140. AUTHORITY TO IMPOUND.**

The City may take into custody any abandoned motor vehicle. In such connection, the City may employ its own personnel, equipment and facilities or hire persons, equipment and facilities or firms or corporations who may be independent contractors for the purpose of removing, preserving and storing abandoned motor vehicles. (Ord. of 2-14-78)

**State Law Reference**--Similar provisions, Code of Virginia, §46.2-1201.

### **SECTION 14-141. NOTICE OF IMPOUNDMENT.**

- (a) When an abandoned motor vehicle is taken into custody pursuant to this article, the chief of police shall notify, within fifteen (15) days thereof, by registered or certified mail, return receipt requested, the owner of record of the vehicle and all persons having security interests therein of record, that the vehicle has been taken into custody. The notice shall describe the year, make, model and serial number of the vehicle, set forth the location of the facility where the vehicle is being held, inform the owner and any persons having security interests of their right to reclaim the vehicle within three (3) weeks after the date of the notice, upon payment of all towing, preservation and storage charges resulting from placing the vehicle in custody, and state that the failure of the owner or persons having security interests to exercise their right to reclaim the vehicle within the time provided shall be deemed a waiver by the owner and all persons having any security interests of all right, title and interest in the vehicle and consent to the sale of the vehicle at public auction.
- (b) If records of the state division of motor vehicles contain no address for the owner or no address of any person shown by such records to have a security interest, or if the identity and address of the owner and all persons having security interests cannot be determined with reasonable certainty, notice by publication once in a newspaper of general circulation in the area where the motor vehicle was

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abandoned shall be sufficient to meet all requirements of notice pursuant to this section as to any person who cannot be notified pursuant to the provisions of this section. Any such notice shall be within the requirements prescribed for notice by mail, and shall have the same contents required for a notice by mail.

- (c) The consequences and the fact of failure to reclaim an abandoned motor vehicle shall be as set forth in a notice given in accordance with and pursuant to this section. (Ord. of 2-14-78)

**State Law Reference**--Similar provisions, Code of Virginia, §46.2-1202.

### **SECTION 14-142. SALE.**

- (a) If an abandoned motor vehicle has not been reclaimed as provided for in §14-141, the City or its authorized agent shall, notwithstanding the provisions of §46.2-617 of the Code of Virginia, sell the vehicle at public auction. The purchaser of the vehicle shall take title thereto free and clear of all liens and claims of ownership of others, shall receive a sales receipt at the auction, and shall be entitled to, upon application therefor pursuant to §46.2-603 of the Code of Virginia, a certificate of title and registration card therefor. The sales receipt at such a sale shall be sufficient title only for purposes of transferring the vehicle to a demolisher for demolition, wrecking or dismantling, and in such case, no further titling of the vehicle is necessary.
- (b) From the proceeds of the sale of an abandoned motor vehicle, the City or its authorized agent shall reimburse itself for the expenses of the auction, the cost of towing, preserving and storing the vehicle which resulted from placing it in custody, and all notice and publication costs incurred pursuant to §14-141. Any remainder from the proceeds of such sale shall be held for the owner of the vehicle or any persons having security interests therein, as their interests may appear, for ninety (90) days, and then shall be deposited into the city treasury. (Ord. of 2-14-78)

**State Law Reference**--Similar provisions, Code of Virginia, §46.2-1203.

### **SECTION 14-143. VEHICLES ABANDONED IN GARAGES.**

- (a) Any motor vehicle, trailer, semitrailer or part thereof left for more than ten (10) days in a garage operated for commercial purposes, after notice by registered or certified mail, return receipt requested, to the owner to pick up the vehicle, or for more than ten (10) days after the period when, pursuant to contract, the vehicle was to remain on the premises, shall be deemed an abandoned motor vehicle, and may be reported by the garage keeper to the chief of police. All abandoned motor

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vehicles left in the garages may be taken into custody by the City in accordance with §14-140, and shall be subject to the notice and sale provisions contained in §§14-141 and 14-142; provided that, if such vehicle is reclaimed in accordance with §14-141, the person reclaiming such vehicle shall, in addition to the other charges required to be paid, pay the charges of the garage keeper, if any; and provided further that, if such vehicle is sold pursuant to §14-142, the garage keeper's shall be entitled to none of the excess of the proceeds of sale.

- (b) Except as otherwise provided in this article, nothing herein shall be construed to limit or restrict any rights conferred upon any person under §§43-32 through 43-36 of the Code of Virginia.
- (c) For the purposes of this section, "garage keeper" means any operator of a parking place, motor vehicle storage facility or establishment for the servicing, repair or maintenance of motor vehicles. (Ord. of 2-14-78)(Ord. No. 044-95, 9-12-95)

**State Law Reference**--Similar provisions, Code of Virginia, §46.2-1204.

### **SECTION 14-144. DISPOSITION OF INOPERABLE ABANDONED VEHICLES.**

Notwithstanding any other provisions of this article, or the provisions of §46.2-617 of the Code of Virginia, any abandoned motor vehicle which is inoperable and which, in the opinion of the chief of police or the city sheriff cannot be feasibly restored to operable condition, may be disposed of to a demolisher without the title and without the notification procedures prescribed by this article. The demolisher, upon taking custody of such vehicle, shall adhere to the provisions of §§46.2-1206 and 46.2-1207 of the Code of Virginia, and shall notify the state division of motor vehicles, on forms and in the manner prescribed by the state commissioner of motor vehicles and, notwithstanding any other provisions of law, no other report or notice shall be required in such instance. (Ord. of 2-14-78; Ord. No. 036-87, 10-13-87).

**State Law Reference**--Similar Provisions, Code of Virginia, §46.2-1205.

**SECTION 14-145. REPEALED.** (Ord. No. 044-95, 9-12-95)

## **ARTICLE IX. ASSEMBLIES, DEMONSTRATIONS AND PARADES**

**SECTION 14-146. PURPOSE.**

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Pursuant to the authority granted to the city by the Code of Virginia and its general police powers, the city does hereby adopt the following sections in order to provide for the public health, safety and general welfare in the city, to ensure the free and safe passage of pedestrians and vehicles on the public rights-of-way, and to ensure the safe and unimpaired use and enjoyment of public property in places open to the general public and otherwise to regulate and control the time, place and manner of activities that would otherwise threaten or impair the public health, safety, and welfare in the city while also encouraging the exercise of the rights to free speech and assembly in the city.

### **SECTION 14-147. DEFINITIONS.**

The following terms shall have the meanings set out herein:

- (a) Parade means any march, demonstration, procession or motorcade consisting of people, animals, or vehicles, or a combination thereof upon the streets, sidewalks or other public areas within the city with an intent or likely effect of attracting public attention that interferes with or has a tendency to interfere with the normal flow or regulation of pedestrian or vehicular traffic upon the streets, sidewalks, or other public property.
- (b) Public assembly means any meeting, demonstration, picket line, rally or gathering of more than ten (10) people for a common purpose as a result of prior planning that interferes with or has a tendency to interfere with the normal flow or regulation of pedestrian or vehicular traffic upon the streets, sidewalks, or other public property within the city or that interferes with or has a tendency to interfere with the normal use of any public property in a place open to the general public.
- (c) Spontaneous event” shall mean an unplanned or unannounced coming together of people, animals or vehicles in a parade or public assembly which was not contemplated beforehand by any participant therein and which is caused by or in response to unforeseen circumstances or events occasioned by news or affairs first coming into public knowledge within five (5) days of such parade or public assembly.

### **SECTION 14-148. PERMIT REQUIRED.**

- (a) It shall be unlawful for any person to conduct or participate in a public assembly, demonstration or parade on the public streets, sidewalks, or other public property of the city in a place open to the general public for which a written permit has not been issued in accordance with the provisions of this article.
- (b) The provisions of this permit shall not apply to:

- (1) Spontaneous events;

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- (2) Recreational activities, including jogging or walking, that do not require closing public streets or other public streets or other public rights-of-way and that do not interfere with or have a tendency to interfere with the normal use of any public property in a place open to the general public;
  - (3) Door-to-door advocacy, including canvassing, pamphleteering, religious or political proselytizing and the distribution of written materials, and similar activities that do not interfere with or have a tendency to interfere with the free passage of pedestrians and vehicles on the public rights-of-way or the normal use of any public property in a place open to the general public;
  - (4) Door-to-door sales of goods or services, and similar activities that do not interfere with or have a tendency to interfere with the free passage of pedestrians and vehicles on the public rights-of-way or the normal use of any public property in a place open to the general public; provided, however, that any persons or organizations engaging in such activities shall comply with any other applicable requirements of the code of the City of Winchester;
  - (5) Funeral processions;
  - (6) Students going to and from school classes or participating in educational activities, provided that such conduct is under the immediate direction and supervision of the proper school authorities;
  - (7) The United States army, navy, air force and coast guard, the military forces of the state and the police and fire divisions of the city;
  - (8) A governmental agency/agencies acting within the scope of its functions; or
  - (9) Park and recreation areas that are regulated by the city's Parks and Recreation Department.
- (c) Permits may be granted if they are requested by individuals or organizations who desire to have a permit, even though the permit is not required under this section.

### **SECTION 14-149. APPLICATION.**

- (a) Any person desiring to conduct a parade or public assembly shall make written application to the chief of police, or his designee, at least five (5) days prior to such parade or public assembly. Such application shall set forth the following information:
  - (1) The name, address and telephone number of the person requesting the permit;
  - (2) The name and address of any organization or group the applicant is representing;

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- (3) The name, address and telephone number of the person who will act as the parade or public assembly leader or chairman and who will be responsible for the conduct of the parade or public assembly;
  - (4) The type of public assembly, including a description of the activities planned during the event;
  - (5) The date and time (start and ending) of the parade or public assembly;
  - (6) If an assembly, the specific location or locations of the assembly;
  - (7) If a parade, the specific assembly and dispersal locations, the specific route, and the plans, if any, for assembly and dispersal;
  - (8) The approximate number of people who, and animals and vehicles which will constitute such parade or public assembly and the type of animals and a description of the vehicles;
  - (9) A statement as to whether the parade or public assembly will occupy all or only a portion of the width of the streets or sidewalks or other public rights-of-way proposed to be traversed or used;
  - (10) A description of any recording equipment, sound amplification equipment, banners, signs, or other attention-getting devices to be used in connection with the parade or public assembly; and
  - (11) Such other information as the chief of police, or his designee, may deem reasonably necessary in order to properly provide for traffic control, street and property maintenance, administrative arrangements, police and fire protection, and for the protection of public health, safety and welfare.
- (b) The chief of police, or his designee, shall not issue the permit if any information supplied by the applicant is false or intentionally misleading.
  - (c) The chief of police, or his designee, shall have the authority to and shall make reasonable efforts to consider an application hereunder which is filed less than five (5) days before the date the parade or assembly is proposed to be conducted if, after due consideration of the date, time, place and nature of the parade or public assembly, the anticipated number of participants and the city services required in connection with the event, and where good cause is otherwise shown, the chief of police, or his designee determines that the waiver of the permit application deadline will not present an undue hazard to public safety.



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### **SECTION 14-150. ISSUANCE OR DENIAL OF PERMIT.**

- (a) The chief of police, or his designee, shall issue the permit within three (3) days of receipt of the completed application, and in any event prior to the scheduled parade or public assembly if the proposed parade or public assembly will not endanger the public health, welfare or safety, applying the following criteria and finding that:
- (1) The time, duration, route and size of parade or assembly will not unreasonably interrupt the safe and orderly movement of vehicular or pedestrian traffic or the normal use of public property in a place open to the general public;
  - (2) The parade or assembly is not of such a nature that it will require diversion of so great a number of police and fire personnel to properly police the line of movement in the areas contiguous thereto so as to impair the normal protection of the remainder of the city;
  - (3) The applicant has, where appropriate, designated monitors sufficient to control the orderly conduct of the parade or assembly in conformity with such permit;
  - (4) The conduct of the parade or assembly will not unduly interfere with the proper fire and police protection of, or ambulance service to, the remainder of the city, or unreasonably disrupt other public services and protection normally provided to the city;
  - (5) The parade or assembly will not interfere with another parade or assembly for which a permit has been granted; and
  - (6) The parade or assembly proposed will not violate, and will conform with all applicable state regulations and laws governing the proposed event.
- (b) For parades or public assemblies held on a regular or recurring basis at the same location, an application for an annual permit covering all such parades or assemblies during the calendar year may be filed with the chief of police, or his designee, at least five (5) and not more than sixty (60) days before the date and time at which the first such parade or public assembly is proposed to commence. The chief of police, or his designee, may and shall make reasonable efforts to waive the minimum five (5) day period after due consideration of the factors specified in subsection (c) in the previous section.
- (c) If the chief of police, or his designee, denies an application, he shall promptly mail to the applicant a notice of his action, stating the reasons for his denial of the permit,

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and notifying the applicant of his right to appeal the denial pursuant to Section 14-155 of this article.

- (d) If two or more applications are submitted requesting a permit under this article for a parade or assembly to be used at the same time and place, the application first filed shall be granted if it meets the requirements of this article;
- (e) Nothing in this article shall permit the chief of police, or his designee, to deny a permit based upon political, social or religious grounds or reasons or based upon the content of the views expressed. Denial of a permit on such grounds is prohibited.

### **SECTION 14-151. ALTERNATIVE PERMIT.**

The chief of police, or his designee, in denying a permit for a parade or public assembly shall be empowered to authorize the conduct of the parade or assembly on a date, at a time, at a place, or over a route different from that proposed by the applicant. An applicant desiring to accept an alternate permit shall file a written notice of acceptance with the chief of police, or his designee. An alternate permit shall conform to the requirements of and shall have the effect of a permit under this article.

### **SECTION 14-152. NOTICE TO CITY AND OTHER OFFICIALS.**

Immediately upon the issuance of a permit, the chief of police, or his designee, shall send a copy thereof to the following:

- (a) The city manager;
- (b) The city attorney;
- (c) The fire chief; and
- (d) The director of the department of public services.

### **SECTION 14-153. COMPLIANCE WITH DIRECTIONS AND CONDITIONS.**

Every person to whom a permit is issued under this article shall substantially comply with all permit terms and conditions and with all applicable laws and ordinances. The parade or assembly chairman or other person heading or leading the parade or assembly shall carry the permit upon his person during the conduct of the parade or assembly, and show the permit when requested to do so.

### **SECTION 14-154. REVOCATION OF PERMIT.**

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The chief of police, or his designee, shall have the authority to revoke any permit issued pursuant to this article if any information supplied by the applicant is discovered to be false or intentionally misleading or if any term, condition, restriction or limitation of the permit has been substantially violated or if there is any continued violation of the terms, conditions, restrictions or limitations of the permit after the applicant or anyone acting in concert with him is notified of a violation of the permit by an appropriate law enforcement official.

### **SECTION 14-155. APPEAL.**

- (a) Any person aggrieved by the refusal of the chief of police, or his designee, to grant a permit, or by the revocation of a permit after one has been issued, may appeal the denial to the city manager, or his designee, by filing with the city manager's office, within five (5) working days after the date of denial or revocation, a written notice of the appeal setting forth the grounds therefore. The city manager, or his designee, shall act upon the appeal within five (5) working days after its receipt.
- (b) The decision of the city manager, or his designee, may be appealed to the circuit court of the City of Winchester, in accordance with the laws of the state.
- (c) In any appeal under this section, the city shall have the burden of demonstrating that the denial of the permit was justified under Section 14-150 of this article.

### **SECTION 14-156. PUBLIC CONDUCT DURING PARADES, DEMONSTRATIONS AND ASSEMBLIES.**

- (a) Interference. No person shall unreasonably hamper, obstruct, impede or interfere with any parade, demonstration or assembly or with any person, vehicle or animal participating or used in a parade, demonstration or assembly for which a written permit has been issued in accordance with the provisions of this article.
- (b) Driving through parades. No driver of a vehicle shall drive between the vehicles, persons or animals comprising a parade, demonstration or assembly or funeral procession except when otherwise directed by a police officer. This shall not apply to authorized emergency vehicles.
- (c) Parking on parade, demonstration or assembly route. The chief of police, or his designee, shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along the public streets or public rights-of-way constituting a part of the route of a parade, demonstration or assembly. The chief of police, or his designee, shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street unposted in violation of this article.

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### **SECTION 14-157. SEVERABILITY.**

If any portion of this article is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this article and such invalid provisions or portions thereof shall be severable.



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